

Exhibit D

From: [Swift, Chris](#)
To: [Fairchild, Katie \(USAWAW\)](#); [Kumar, Ambika](#)
Cc: [Cravens, Annalisa \(USAWAW\)](#); [Fonseca, Joseph \(USAWAW\)](#); [Froelich, Caitlin \(USAWAW\)](#)
Subject: [EXTERNAL] RE: NWDC Resistance v. ICE -- meet & confer
Date: Wednesday, July 5, 2023 4:59:31 PM

Katie,

Please see Plaintiffs' responses below. Plaintiffs are preparing supplemental discovery responses, as indicated below. Please let us know if you have any questions.

First Discovery Requests to CARW:

- Interrogatory 1
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 2
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 3
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 4
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 5
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 6
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request setting forth additional information.

- RFP 13
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 15
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 17
 - Plaintiff withdraws its allegation that “[CARW] ask[s] undocumented activist leaders what those leaders need and do those things. CARW’s agenda is expressly set by undocumented activist leaders.”
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 18
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 20
 - As stated in Plaintiff’s objections, Plaintiff did not conduct a search for documents responsive to this request. However, in response to other requests, Plaintiff has produced documents that are responsive to this request and are sufficient to show the purpose for Plaintiff’s creation.

First Discovery Requests to NWDC Resistance:

- Interrogatory 1
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants’ request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 2
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants’ request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 3
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants’ request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 4
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants’ request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be

disclosed once identified through ongoing discovery efforts.

- Interrogatory 5
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- Interrogatory 6
 - Plaintiff did not limit its answers on First Amendment grounds. However, Plaintiff will provide a supplemental answer to Defendants' request setting forth additional information.
- Interrogatory 7
 - Plaintiff will provide a supplemental answer to this request clarifying that it will support the allegations in paragraphs 62 and 66 of the First Amended Complaint only with evidence of changes in participation by specific, identified individual(s), and not organization-wide changes in participation.
- RFP 13
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 15
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 16
 - As stated in Plaintiff's objections, Plaintiff did not conduct a search for documents responsive to this request. However, in response to other requests, Plaintiff has produced documents responsive to this request and sufficient to identify key members of Plaintiff.
- RFP 18
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 19
 - As stated in Plaintiff's objections, Plaintiff did not conduct a search for documents responsive to this request. However, in response to other requests, Plaintiff has produced documents that are responsive to this request and are sufficient to show the purpose for Plaintiff's creation.
- RFP 20
 - No documents responsive to this request are being withheld on First Amendment grounds.

Second Discovery Requests to CARW:

- Interrogatory 8
 - Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.

- RFP 24
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 25
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 26
 - As stated in Plaintiff's objections, Plaintiff did not conduct a search for documents responsive to this request. However, in response to other requests, Plaintiff produced communications with La Resistencia that were responsive to Defendants' other requests.
- RFP 27
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 28
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 29
 - Plaintiff withdraws the allegation that "CARW's agenda is set by [La Resistencia]"
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 30
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 31
 - No documents responsive to this request are being withheld on First Amendment grounds.

Second Discovery Requests to NWDC Resistance:

- Interrogatory 9
 - Plaintiff will provide a supplemental answer to Defendants' request clarifying that it only bases its claims on instances of selective enforcement targeting specific, identified individuals who have been disclosed to Defendants or who will be disclosed once identified through ongoing discovery efforts.
- RFP 22
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 23
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 24
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 25
 - No documents responsive to this request are being withheld on First

Amendment grounds.

- RFP 26
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 28
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 29
 - No documents responsive to this request are being withheld on First Amendment grounds.
- RFP 30
 - As stated in Plaintiff's objections, Plaintiff did not conduct a search for documents responsive to this request. However, in response to other requests, Plaintiff produced communications with CARW that were responsive to Defendants' other requests.
- RFP 31
 - No documents responsive to this request are being withheld on First Amendment grounds.

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From: Fairchild, Katie (USAWAW) <Katie.Fairchild@usdoj.gov>

Sent: Monday, June 26, 2023 4:38 PM

To: Kumar, Ambika <AmbikaKumar@dwt.com>; Swift, Chris <ChrisSwift@dwt.com>

Cc: Cravens, Annalisa (USAWAW) <Annalisa.Cravens@usdoj.gov>; Fonseca, Joseph (USAWAW) <Joseph.Fonseca@usdoj.gov>; Froelich, Caitlin (USAWAW) <Caitlin.Froelich@usdoj.gov>

Subject: NWDC Resistance v. ICE -- meet & confer

[EXTERNAL]

Counsel,

Following up on our call last week, and in particular our continued discussions about Plaintiffs' objections to responding to discovery requests and providing information about the alleged harms that are the basis of Plaintiffs' standing in this case and the organizations' membership, we understand that Plaintiffs will be withdrawing certain allegations for which Plaintiffs do not intend to provide evidence.

So that we can move forward in this litigation, please let us know by the end of this week the following information. If Plaintiffs do not indicate that they are withdrawing an allegation or representation, we will understand that it remains at issue and Defendants will continue to pursue

discovery related to it. **Therefore, please identify by 6/30:**

1. Which allegations in Plaintiffs' Amended Complaint will be withdrawn.
2. If any representations made in a declaration will be withdrawn or not be supported with evidence. For example, if Plaintiffs will not be providing information about anonymous individuals previously referenced or discussed in a declaration, identify those paragraphs that will be withdrawn or not supported.
3. Which discovery requests, among those identified below, Plaintiffs intend to supplement or revise their response.

We understand that for some discovery requests, Plaintiffs intend to represent that they are only relying on specific individuals or specific information, *and not any other unidentified information*, for the purpose of proving their claims in this litigation. You asked us to identify which discovery requests Defendants contend Plaintiffs have inappropriately objected to, or inappropriately refuse to provide complete information to, because Plaintiffs have put the information at issue through their allegations. Below is the requested list. Defendants intend to move forward with a motion to compel unless Plaintiffs appropriately supplement their discovery responses by 6/30. In any revisions, please clarify whether any information is being withheld or if Plaintiffs' response is otherwise limited through use of the language "subject to and without waiving these objections. . . . " If Plaintiffs are not withholding any information to a particular request on the basis of Plaintiffs' assertion that "information [is] shielded by the First Amendment associational privilege," please indicate that no information is being withheld.

While Defendants will consider in good faith what limitations may be appropriate for this litigation, Defendants reserve all rights to seek discoverable information in this litigation, and do not agree that Plaintiffs may unilaterally determine for which issues Defendants may seek discovery.

Discovery Responses:

Second Discovery Requests to CARW:

- Interrogatory 8
- RFP 24
- RFP 25
- RFP 26 (to the extent you contend this request is overly burdensome, please provide us with custodian/volume information so that Defendants can propose narrowing; alternatively, please feel free to propose your own narrowing)
- RFP 27
- RFP 28
- RFP 29
- RFP 30
- RFP 31

Second Discovery Requests to NWDC Resistance:

- Interrogatory 9
- RFP 22

- RFP 23
- RFP 24
- RFP 25
- RFP 26
- RFP 28
- RFP 29
- RFP 30 (to the extent you contend this request is overly burdensome, please provide us with custodian/volume information so that Defendants can propose narrowing; alternatively, please feel free to propose your own narrowing)
- RFP 31

First Discovery Requests to CARW:

- Interrogatory 1
- Interrogatory 2
- Interrogatory 3
- Interrogatory 4
- Interrogatory 5
- Interrogatory 6
- RFP 13
- RFP 15
- RFP 17
- RFP 18
- RFP 20

First Discovery Requests to NWDC Resistance:

- Interrogatory 1
- Interrogatory 2
- Interrogatory 3
- Interrogatory 4
- Interrogatory 5
- Interrogatory 6
- Interrogatory 7
- Interrogatory 8
- RFP 13
- RFP 15
- RFP 16
- RFP 18
- RFP 19
- RFP 20

Thank you,
Katie